IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2721 OF 2005

Chandrakant Jerambhai Sanghavi .. ..Petitioner
Versus
The State of Maharashtra & Ors. .. ..Respondents

Mr.A.N.Maniyar for petitioner
Mr.P.G.Sawant, AGP for respondent nos.1 to 3
Mr.Shaikh Nasir Masih for respondent no.4

CORAM : P.V.KAKADE, J.

DATE : 21ST DECEMBER, 2005

P.C.:

1. Heard the learned counsel for all the parties. Perused the record.

2. Rule, rule made returnable forthwith by consent.

3. The Petitioner-Teacher has impugned order of the Presiding Officer, School Tribunal, Mumbai dated 3.8.2005 dismissing the appeal which was preferred by the petitioner under Section 9 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 (hereinafter referred to as " the

said Act").

. The brief facts involved in this dispute are that the Petitioner is M.Com., B.Ed. and fully qualified to hold the post of Principal in the School and Jr. College run by the 1st Respondent, a Trust registered under the Bombay Public Trust Act. He was appointed as a Principal in the Respondents School and Jr. College vide order of appointment dated 8.2.2001. The school is recognised and aided by Respondent no.3. Respondent no.4 is the supervisory authority empowered to regulate the appointments of the employees of private schools and their service conditions as per the provisions of the Act. The petitioner did not leave the management any occasion to issue memo or warning in respect of his work and behaviour as a Principal. It is a case of the petitioner that his services came to be terminated arbitrarily vide order dated 9.7.2001. It is further case of the that the termination order is illegal and liable to be set aside and claim for reinstatement in the same post which he was holding before termination of services with all consequential benefits.

4. The learned appellate authority after hearing both the parties came to the conclusion that the record sufficiently showed that the termination was not illegal vide order dated 9.7.2001 and therefore there was no question of setting aside the termination order and hence the petitioner was not entitled for any reliefs and the appeal came to be dismissed. Hence the present Petition.

5. The learned counsel for the petitioner submitted that the written statement filed by the Managing Trustee contains serious allegations against the petitioner which constituted stigma on the service of the petitioner and the termination order is a punitive one. The termination order is not a termination simplicitor but it casts a stigma in the light of the written statement and since appointment the management did not pay any salary to the petitioner. Under such circumstances the Management terminated the services of the petition by giving one month’s salary in lieu of one month’s notice. On such and other grounds the petition is sought to be allowed setting aside the order passed by the appellate authority dismissing the appeal.

6. The only question for consideration is with regard to the termination order in order to decide its nature as to whether it is casting stigma upon the petitioner. The termination order reads as follows :

> "You were appointed as a Principal vide Appointment order dated 8.2.2001 on probation for a period of one year w.e.f. 12.3.2001.
>
> Your services are terminated with immediate effect.
>
> Find enclosed herewith the Cheque drawn on Corporation Bank bearing Cheque No.456348 for Rs.16,217=50 dated 9.7.2001 being one month salary in lieu of notice. You are requested not to attend the school henceforth. sd/-"

Therefore, from the plain reading of the termination order, it is apparent that it casts no stigma on the petitioner nor the termination of service is punitive in nature.

7. The learned counsel for the petitioner sought to put reliance on the ruling of the Apex Court in the case of **V.P.Ahuja vs State of Punjab and Ors. reported in (2000) 3 SCC 239.** On perusal of the facts of the said ruling, it is apparent that those are not applicable to the present case. Howsoever, it may be noted that regarding the observation made by the Apex Court to the effect that the probationer like a temporary servant is also entitled to certain protection and his services cannot be terminated arbitrarily, nor can those services be terminated in a punitive manner without complying with the principles of natural justice, that there cannot be two opinions with regard to the ratio laid down by the Apex Court in this case. However, I am satisfied that the case in hand, it is quite apparent on perusal of the record that the termination is neither arbitrary nor it can be said that there is any violation of principles of natural justice, especially when the wording of the termination order itself is sufficient to show that it was a termination simplicitor without any stigma and therefore, the arguments that only because when the termination order was contested by the petitioner, and respondents have filed written statement containing the material on the basis of which they have

concluded that the performance of the petitioner was not satisfactory as contemplated under Section 5(3) of the said Act, would not amount to put any stigma on the career of the Petitioner. In fact the said allegations have culminated in conclusion of the respondent that his performance was not satisfactory as a result of which the termination order was passed. So far as alleged violation of principles of natural justice is concerned, there is no iota of any material before us to support this allegation.

8. The learned counsel for the respondent sought to put reliance on the judgment of the Apex Court in the case of **Pavanendra Narayan Verma vs. Sanjay Gandhi P.G.I. of Memorial Sciences & Anr reported in 2002(1) ALL MR 203 (S.C.)**. On perusal of the said ruling it is quite apparent that the Apex Court has taken out its earlier judgments exhaustively and has observed that the language used in the order of termination is that the appellant's "work and conduct has not been found to be satisfactory". These words are almost exactly those which have been quoted in Dipti Prakash Banerjee's case (for which the Supreme Court relied upon) as clearly falling within the class of non stigmatic orders of

termination. It is, therefore safe to conclude that the impugned order is not ex facie stigmatic.

9. Now when the wordings to the effect that the work and conduct was not found to be satisfactory was held not to be stigmatic by the Apex Court, then the question in the present case does not arise to the effect that the impugned order of termination is imposing any stigma on the petitioner.

. Before conclusion, it is to be noted that the petitioner has also sought mandamus with direction to the Deputy Director of Education, to take the name of the petitioner on the waiting list and to recommend the same to the management of newly opened schools or of the existing aided schools which are allowed to open additional divisions or classes for absorption as a lecturer under the provisions of Rule 25A of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981. However, it is to be noted that, for that purpose the petitioner would be required to move the concerned authority separately and this court could not give any direction to that effect.

10. In the result the petition has no merits and stands dismissed with no order as to costs. Rule stands discharged.